

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

BARRY HALL, et al.,

Plaintiffs,

v.

AT & T MOBILITY LLC f/k/a CINGULAR,  
WIRELESS LLC, et al.,

Defendants.

Civil Action No.: 07-5325 (JLL)

**ORDER**

This matter comes before the Court on the Seven Law Firms' application for an order enforcing an agreement between the Seven Law Firms and ETF Class Counsel.<sup>1</sup> This Court has reviewed the papers submitted in support of and in opposition to said application and finds that mediation would conserve judicial resources and be in the best interest of the court and the parties. Therefore,

**IT IS ON THIS 11<sup>th</sup> DAY OF APRIL, 2011;**

**ORDERED**, that this application be and hereby is referred to mediation before Michael D. Sirota, Esq. of Cole, Schotz, Meisel, Forman, & Leonard, P.A.;<sup>2</sup> and, it is further,

**ORDERED**, that counsel and their respective clients participate and cooperate fully in the mediation process and with mediator, Michael D. Sirota, Esq.; and, it is further,

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<sup>1</sup> The Seven Law Firms refers to the law firms of Bramson, Plutzik, Mahler & Birkhaeuser, LLP; Franklin & Franklin, APC; Law Offices of Anthony A Ferrigno; Reich Radcliffe LLP; Cuneo Gilbert & LaDuca; Law Offices of Carl Hilliard; and Law Offices of Joshua Davis. ETF Class Counsel refers to the law firms of Strange & Carpenter and Carella, Byrne, Bain, Gilfillan, Cecchi, Stewart & Olstein.


<sup>2</sup> Mr. Sirota's professional biography is attached to this order as Exhibit A.

**ORDERED**, the mediator shall contact the parties to schedule mediation; and, it is further

**ORDERED**, that counsel and the parties (including all individuals with settlement authority) shall attend all mediation sessions requested by the mediator; and, it is further,

**ORDERED**, that the mediator may meet with counsel and parties jointly or *ex parte*. All information presented to the mediator shall be deemed confidential and shall be disclosed by the mediator only on consent of counsel, except as necessary to advise the court of an apparent failure to participate. The mediator shall not be subject to subpoena by any party. No statements made or documents prepared for mediation sessions shall be disclosed in any subsequent proceeding or construed as an admission against interest; and, it is further,

**ORDERED**, that in the event that mediation is unsuccessful, the parties shall notify the Court.<sup>3</sup>

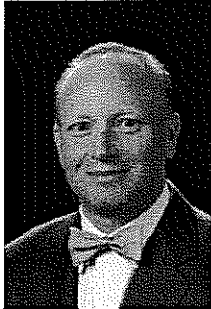
  
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Jose L. Linares  
United States District Judge

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<sup>3</sup>However, in the event that mediation is unsuccessful, the Court tends to believe that this dispute is more properly suited for litigation in state court.

# **EXHIBIT**

## **A**



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#### EDUCATION

- Syracuse University  
College of Law, J.D., *cum laude*, 1986

#### BAR & COURT ADMISSIONS

- New Jersey, 1986
- U.S. District Court,  
District of New Jersey,  
1986
- New York, 1987
- U.S. District Court,  
Southern District of New  
York, 1987
- U.S. Court of Appeals,  
District of Columbia  
Circuit, 1987
- U.S. Court of Appeals,  
First Circuit, 2007
- U.S. Court of Appeals,  
Third Circuit, 1987
- U.S. Court of Appeals,  
Sixth Circuit, 1987
- U.S. Court of Appeals,  
Eleventh Circuit, 1987

## Michael D. Sirota

### Member

#### Bankruptcy & Corporate Restructuring

Michael D. Sirota, Co-Managing Shareholder of the firm and Co-Chair of the firm's Bankruptcy & Corporate Restructuring Department, concentrates in all facets of restructurings, insolvency law and complex bankruptcy and commercial litigation. In 2009 and 2010, Mr. Sirota was recognized by Chambers USA with a #1 tier ranking as a leader in all areas of bankruptcy and restructuring.

Mr. Sirota has represented clients in a myriad of industries including casino and gaming, healthcare, real estate, manufacturing, distribution, finance and transportation. He represents publicly and privately held debtors, trustees, secured and unsecured creditors, equity holders, indenture trustees, venture capitalists, private equity/hedge funds and parties with substantial interests in distressed situations and insolvency proceedings throughout the country. Mr. Sirota's commercial and insolvency law knowledge and extensive court experience frequently result in his retention as special litigation counsel in complex matters tried before the United States Bankruptcy and District Courts.

Mr. Sirota's vast experience in "high stakes" insolvency and litigation matters has resulted in his frequent representation of businesses, high net worth individuals and professionals (including lawyers and financial advisors) faced with crisis situations.

He is a co-author of West Publishing's New Jersey Practice Series "Sirota and Meisel, Debtor-Creditor Law Practice" (2009), covering, among other topics, Receivers for Corporations, Bankruptcy and Assignment for Benefit of Creditors. He is also a co-author of the New Jersey Bankruptcy Manual. Mr. Sirota has written numerous articles that have been published in the *New Jersey Law Journal* and various other journals. Mr. Sirota frequently lectures and authors materials on bankruptcy topics for the New Jersey Institute for Continuing Legal Education.



**Michael D. Sirota** (Continued)

**NOTEWORTHY**

Mr. Sirota has been awarded an AV rating for his professionalism and the quality of his legal work from Martindale-Hubbell, the premier directory of legal professionals. He has been selected for inclusion in *Best Lawyers in America*® (since 2000) and has been included in either the Top 10 or Top 100 *New Jersey Super Lawyers*® list since 2005. He is a fellow of the American College of Bankruptcy.

*Chambers USA: America's Leading Lawyers For Business*, a well-respected legal directory, compiled based on in-depth interviews with key in-house counsel and private practice attorneys, ranks Mr. Sirota in Band 1 for the second consecutive year and notes:

- "Co-managing partner and co-chair of the practice Michael Sirota is considered to be the team's leading light. He led the representation of Tarragon and is described as 'an outside-the-box thinker, who can devise creative solutions to any stalemate.'" *2010 edition*.
- "...foremost among the team's extremely capable and highly strategic thinkers is departmental chair Michael Sirota, who is one of the area's leading practitioners in all areas of bankruptcy and restructuring matters. He is widely revered for his ability to develop innovative and effective solutions to bankruptcy issues. 'He's very diligent – and because he's been in so many major cases, he has great general experience'," say sources. *2009 edition*.

Mr. Sirota serves as a member of the Lawyers Advisory Committee for the United States District and Bankruptcy Courts for the District of New Jersey. He served on the 2006, 2007, 2009 and 2010 United States Magistrate Judges Judicial Selection Committee for the United States District Court and the 2006 Merit Selection Committee for the selection of a United States Bankruptcy Judge.

**Presentations:**

Panelist - Third Circuit Judicial Conference

Guest - CNN Moneyline with Lou Dobbs  
Fox Business

Panelist for New Jersey Institute of Continuing Legal Education:

- Recent Case Law Development in Bankruptcy 1992-2006
- Dischargeability
- The Power of the Bankruptcy Court: An Analysis of Section 105
- New Federal Rules of Bankruptcy Procedure



## **Michael D. Sirota** (Continued)

- Financial Aspects of Chapter 11
- Important Decisions and Aspects of Chapter 11 Practice

### **REPRESENTATIVE MATTERS**

Mr. Sirota has restructured billions of dollars of distressed debt over his career. In addition to accomplishing countless out-of-court restructurings, including New York Waterway and St. Joseph's Hospital & Medical Center, Mr. Sirota has represented Chapter 11 debtors such as Tarragon Development Corporation, Zayat Stables, LLC, Adamar of New Jersey, Inc. (a/k/a Tropicana Casino and Resort--Atlantic City) and Manchester Mall, Inc., EnCap Golf Holdings, LLC, Marcal Paper Mills, Inc., Passaic Beth Israel Hospital, Princeton Ski Shops, Best Manufacturing Group, LLC (one of the country's largest textile distributors and manufacturers), Burke Industries, Inc. (aerospace and defense company), Topps Appliance City, Inc., Knights Lodging, Inc., Economy Lodging Systems, Inc. (188 motel franchisor), Carretta Trucking, Inc. (national trucking company), Horowitz/Rae Book Manufacturers, Inc. (national book distributor), Hit or Miss, Inc. (national retailer of women's clothing), Integral Nuclear Management, Workbench Furniture, Inc. and Jazz Photo Corp. He has also represented clients in pivotal roles in the bankruptcy proceedings of St. Vincents Hospital, Linens 'N Things, Parmalat USA (special litigation counsel to Creditors' Committee), K-Mart, Bethlehem Steel, New Valley Corporation (Western Union), Bayonne Medical Center (counsel to largest secured creditor), Kara Homes (counsel to Creditors' Committee), Rickel Home Centers, Inc., Neuman Distributors, Inc., Keystone Camera Corporation, MacGregor Sporting Goods, Inc., Mutual Benefit Overseas, Inc., Grand Court Lifestyles, Inc., Bradlees Stores, Inc., and Agway, Inc.

### **PUBLISHED DECISIONS**

*In re Bressman*, 327 F.3d 229 (3rd Cir. 2003) - successfully defended pre-eminent NYC criminal law firm against Chapter 7 Trustee disgorgement claim.

*In re Swedeland Development Group, Inc.*, 16 F.3d 552 (3rd Cir. 1994) - argued before Third Circuit panel and *en banc*, seminal case in Third Circuit on debtor-in-possession financing and the standard for "priming" a secured creditor.

*In re Jazz Photo Corp.*, 312 B.R. 524 (Bankr. D.N.J. 2004) -prosecution of sanctions motion against creditor and counsel.

*In re Bressman*, 214 B.R.131 (Bankr. D.N.J. 1997) - addressing the challenges in representing individual debtor against non-dischargeability actions and the funding of such defense.



**Michael D. Sirota** (Continued)

*In re Economy Lodging Systems, Inc.*, 205 B.R. 862 (Bankr. N.D. Ohio 1997) - "cram-down" and absolute priority rule in contested Chapter 11 confirmation proceeding.

*Centennial Associates Ltd. Partnership v. F.D.I.C.*, 927 F. Supp. 806 (D.N.J. 1996) - successful dismissal of mortgagor's claims for lack of jurisdiction.

*In re Geriatrics Nursing Home, Inc.*, 195 B.R. 34 (Bankr. D.N.J., 1996 - reimbursement of costs and expenses sought by hostile plan proponent pursuant to 11 U.S.C. § 503(b)(3)(D).

*Touch of Class v. Mercedes-Benz Credit of Canada, Inc.*, 248 N.J. Super. 426 (N.J. Super. A.D. 1991) - successful prosecution of case on behalf of Mercedes Benz in establishing true lease versus purchase agreement.

*Matter of Keystone Camera Products Corp.*, 126 B.R. 177 (Bankr. D.N.J. 1991) - successfully opposed debtor's attempt to prime existing liens and obtained conversion to Chapter 7.

*Matter of Quality Spice Corp.*, 107 B.R. 843 (D.N.J. 1989) - doctrine of mootness on appeals from bankruptcy court orders.

*C.B. Snyder Realty Inc. v. BMW of North America, Inc.*, 233 N.J. Super. 65 (N.J. Super. A.D. 1989) - successful defense of BMW North America against real estate broker's claim.

**PUBLICATIONS**

Retail Debtors Aggressively Attempt to Realize the Value of Shopping Center Leases, *New Jersey Law Journal*

Buyer and Seller Beware!, *New Jersey Law Journal*

Co-Author, West Publishing's *New Jersey Practice Series*, "Sirota and Meisel, Debtor-Creditor Law Practice"

New Jersey Bankruptcy Manual, *New Jersey Institute of Continuing Education*

Practice Pitfalls in Chapter 11 Proceedings, *New Jersey Law Journal*

Competing Proceedings: A Debtor's Dilemma, *New Jersey Law Journal*

It Pays To Be Diligent, *New Jersey Law Journal*

Section 503 (b): Potent Tool for Selfless Creditors, *New Jersey Law Journal*



**Michael D. Sirota** (Continued)

Bankruptcy and the Automatic Stay: The 'Stealth' Supersedeas Bond, *New Jersey Law Journal*

Can a Plan of Reorganization Bind a Creditor Holding a Non-Dischargeable Debt?, *Essex County Chronicle*

ADR Can Help a Chapter 11 Debtor, *New Jersey Law Journal*

**SPEAKING ENGAGEMENTS**

- Bankruptcy Preparation: Beyond the Basics, *American Bankruptcy Institute 2010 Annual Spring Meeting*, May 1, 2010

**PROFESSIONAL ACTIVITIES**

- New Jersey State Bar Association (Bankruptcy Law Section, former Legislative Coordinator)
- American Bankruptcy Institute
- Master, Bankruptcy Inn of Court
- Bergen County Bar Professionalism Committee, 2005 Co-Chairman